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STATE OF MONTANA
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STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA
CASE NO. DA 09-0659

C.A. GRENZ,
Petitioner and Appellee,

-VS-

MONTANA DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION,
Respondent and Appellant,

and JOHN AND ANGELA HEITZ,
Respondents.

On Appeal from the Montana Sixteenth Judicial District Court, Garfield County
The Honorable Gary Day, Presiding
Garfield County District Court Cause No. DV-17-2008-2911

APPELLANT, STATE OF MONTANA'S ERRATA SHEET

Appearances:

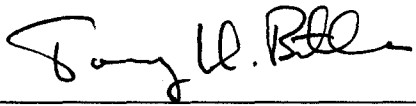
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The Reply Brief filed by the State of Montana, Department of Natural Resources and Conservation, in the above-captioned action lacked page 11 of the brief. Enclosed is page 11 of the Appellant's Reply Brief.

DATED this 7th day of June, 2010.


By: 
Tommy H. Butler
Special Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing APPELLANT, STATE OF MONTANA'S ERRATA SHEET was served by mail, postage prepaid, upon the following on the 7th day of June, 2010:

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CONCLUSION

ARM 36.25.125(3) requires a willing buyer and a willing seller for the transfer and sale of moveable improvements upon grazing leases on State trust lands. A review of the State Land Board's broad Constitutional authority over State trust lands as well as applicable legislative provisions shows that adoption of such a rule by the Land Board is not prohibited by law.

ARM 36.25.125 does not engraft additional requirements in conflict with statute. Instead, the Board's rules specify a different treatment for items that are not affixed to the land in accordance with this Court's ruling in Montrust I that Article X, Section 11 of the 1972 Montana Constitution prohibits moveable improvements from remaining upon State trust lands after the termination of the lease without further compensation. If moveable improvements cannot constitutionally remain upon the trust lands without further payment, they certainly cannot remain on the trust land unless they are sought to be purchased by the new lessee. The administrative record shows Mr. Grenz has obtained no right to keep his moveable improvements upon these State trust lands. The District Court erred by invalidating ARM 36.25.125(3).

In adopting ARM 36.25.125 the State Board of Land Commissioners has exercised its discretion, and adopted administrative rules to implement the transfer and valuation of moveable improvements from a former lessee to a new lessee. It